IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 22.11.2007

Coram:-

The Hon'ble Mr. Justice P.D.DINAKARAN
and
The Hon'ble Mr. Justice R.REGUPATHI

Writ Appeal No.1165 of 2002

T.S.Pandian ... Appellant/Petitioner

vs.

1. The Tamil Nadu Electricity
Board, represented by its Chairman,
800, Anna Salai, Chennai 600 002.

2. The Accounts Member,
Tamil Nadu Electricity Board,
Anna Salai, Chennai-600 002.

3. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Town Circle, Andipatty,
Theni District. ... Respondents/Respondent

Appeal under Clause 15 of the Letters Patent as against the order of the learned single Judge, dated 12.04.2002, made in W.P.M.P. No.16602 of 2002 in W.P. No.12329 of 2002

W.P.M.P. No.16602 of 2002:- Praying for a direction to direct the 3rd respondent herein to restore the service connection No.F.164 to the Petitioners factory in Andipatty Town pending in W.P. No.12329 of 2002.

WP.No.12329/2002:-

Praying for issuance of a writ of certiorarified mandamus calling for the records comprised in the proceedings of the 2nd respondent in his letter No.SE/Com1./E2/A2/F.SC. No.F164/CR651/2002 dated 11.3.2002 and of the 3rd respondent in his letter No.AEE/A/Audit/O.No.297/99 dated 7.9.1999 and quash the proceedings of the 2nd and 3rd respondents dated 11.3.2002 and 7.9.1999 respectively.

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For Appellant : Mr.Sivavarthanan

For Respondents: Mr.S.N.Kirubanandam

J U D G M E N T

(Delivered by P.D.DINAKARAN, J.)

The appellant herein is the writ petitioner in W.P. No.12329 of 2002, wherein, he sought for the issuance of a writ of certiorarified mandamus to call for the records relating to the proceedings of respondents-2 and 3 dated 11.03.2002 and 07.09.1999 respectively and quash the same. Along with the Writ Petition, a Miscellaneous Petition in W.P.M.P. No.16602 of 2002 was filed to restore service connection No.F.164 to the writ petitioner's factory in Andipatty Town. The learned single Judge, by order dated 12.04.2002, disposed of the Miscellaneous Petition and the order reads as follows:-

> " Mr.Thirumavalavan, Government Advocate takes notice on behalf of the counsel appearing for the Respondents Electricity Board.
>
> There will be a direction to the respondents to restore the connection on the petitioner making the payment of entire arrears with 12 per cent interest from the date of the amount fell due. As and when the amount is paid, the authorities are directed to give re-connection to the factory of the petitioner. Notice. "

As against the above conditional order, the appellant has preferred the present Writ Appeal on the ground that the demand made ie., Rs.80,000/-, towards arrears of electricity charges is illegal since tariff rate was unilaterally changed in respect of his Unit, which is a small scale industry, treating it as a heavy industry.

2. It is contended that initially, at the request of the petitioner/appellant, the tariff rate was collected for his Unit as applicable to small scale industries. But, later on, when the appellant applied for an additional loan, with effect from 30.09.1996, the concession in tariff given to his Unit meant for small scale industries was unilaterally withdrawn. According to the learned counsel for the appellant, the respondents/Board ought not to have changed the tariff rate without giving an opportunity to the appellant.

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3. Concededly, pending writ appeal, the appellant already paid Rs.40,000/-. It is also not in dispute that the Electricity Board had not given any opportunity to the appellant before changing the tariff rate. If that be so, suffice it to dispose of the writ appeal with the following directions:-

(i) The respondents/Board shall give adequate opportunity to the petitioner/appellant before effecting change in tariff rate;

(ii) On receipt of notice from the Board in that regard, the appellant shall submit his objection/explanation;

(iii) The Board shall consider the explanation received from the appellant and pass appropriate orders in accordance with law; and

(iv) Until then, further demand of arrears shall be kept in abeyance.

Writ Appeal is disposed of accordingly, modifying the order of the learned single Judge, dated 12.04.2002, in WPMP No.16602 of 2002 in W.P. No.12329 of 2002, to the extent indicated above.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Chairman, Tamil Nadu Electricity Board,
800, Anna Salai, Chennai 600 002.

2. The Accounts member, Tamil Nadu Electricity Board,
Anna Salai, Chennai-600 002.

3. The Asst. Executive Engineer, Tamil Nadu Electricity Board,
Town Circle, Andipatty, Theni District.

+ 1 cc to Mr. V. Ramajegadeesan, Advocate, SR No.69408
+ 1 cc to Mr. S. N. Kirubanandam, Advocate, SR No.69897

ASM(CO)
SR/12.12.2007 W.A. No.1165/2002.

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